

THE VIDEO DEPOSITION OF DAVID BERRY,  
produced as a witness on behalf of the Defendants, in  
the above styled and numbered cause, taken on the 29th  
day of August, 2007, in the City of Tulsa, County of  
Tulsa, State of Oklahoma, before me, Marlene Percefull,  
Certified Shorthand Reporter, duly certified under and  
by virtue of the laws of the State of Oklahoma.

A P P E A R A N C E S

FOR THE PLAINTIFF: Ms. Sharon K. Weaver  
Ms. Holly M. Hillerman  
Attorney at Law  
502 W. 6th St.  
Tulsa, OK 74101

FOR TYSON FOODS: Mr. Michael Bond  
Attorney at Law  
The Three Sister Bldg.  
214 West Dickson Street  
Fayetteville, AR 72701  
-and-  
Mr. Robert George  
(via phone)

FOR CARGILL: Ms. Theresa Noble Hill  
Ms. Carla Jimerson  
Attorney at Law  
100 West 5th Street  
Suite 400  
Tulsa, OK 74103  
-and-  
Mr. John Tucker  
(via phone)

FOR SIMMONS FOODS: Mr. John Elrod  
Attorney at Law  
211 East Dickson Street  
Fayetteville, AR 72701

FOR PETERSON FARMS: Ms. Nicole Longwell  
Mr. Craig Mirkes  
Attorney at Law  
320 S. Boston  
Suite 700  
Tulsa, OK 74103

FOR GEORGE'S: Mr. James Graves  
Attorney at Law  
221 North College  
Fayetteville, AR 72701

1 FOR CAL-MAINE:

Mr. Robert Sanders  
Attorney at Law  
2000 AmSouth Plaza  
P. O. Box 23059  
Jackson, MS 39225  
(via phone)

5 FOR WILLOW BROOK:

Ms. Jennifer Griffin  
Attorney at Law  
314 East High Street  
Jefferson City, MO 65109  
(via phone)

8  
9 FOR OK DEPARTMENT OF  
AGRICULTURE5:

Ms. Janet Stewart  
Attorney at Law  
2800 No. Lincoln Blvd.  
Oklahoma City, OK 73152

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

W I T N E S S P A G E

DAVID BERRY

Direct Examination by Mr. Graves	5
Cross Examination by Ms. Longwell	174
Cross Examination by Ms. Hill	230
Cross Examination by Mr. Elrod	237
Cross Examination by Mr. Bond	247
Cont'd Cross Exam by Ms. Longwell	260
Cross Examination by Mr. Sanders	265
Cross Examination by Ms. Griffin	267
Signature Page	270
Reporter's Certificate	271

Questions certified:

PAGE 117 LINE 20

Q What was your understanding of why you needed to take soil samples on those particular farms?

PAGE 136 LINE 14

Q Do you know what CDM was going to do with them?

1 and also your background on your father's farm, do you 11:31AM  
2 agree there is a relationship between the use of  
3 poultry litter and ownership of cattle?

4 A That there's -- I'm sorry, would you repeat that?

5 Q That there's a relationship between -- a close 11:31AM  
6 relationship between the use of litter and the  
7 ownership of cattle, raising cattle?

8 MS. WEAVER: Object to the form.

9 A The only relationship, I guess, that I would see  
10 is that the cattleman uses the poultry litter for 11:31AM  
11 fertilizer.

12 Q And to your knowledge, do a number of cattlemen  
13 also get in the poultry business so that they'll have  
14 poultry litter?

15 A I'd say not necessarily. Like my Laotian growers, 11:32AM  
16 they're just, I think, growing chickens to make a  
17 living.

18 Q That's one grower though, right, one farm?

19 A Yeah, I mean, but, I mean, I don't know who all is  
20 doing it to grow chickens so that they've got poultry 11:32AM  
21 litter for their cattle. I wouldn't know their  
22 intentions.

23 Q In your experience, are any of the poultry growers  
24 in your area, do they have any intent that you know of  
25 to harm to try to harm the waters in Oklahoma? 11:32AM

241

1 chicken litter to be a valuable asset? 4:07PM

2 A It's a fertilizer for their hay fields.

3 Q And I think I heard your testimony this morning  
4 that your parents didn't use commercial fertilizer?

5 A No, sir, we never have. 4:08PM

6 Q And do you see -- strike that. Just from having  
7 lived on the earth, you know that most commercial  
8 fertilizer comes from a petroleum based beginning,  
9 either that or mining?

10 A I'm not real educated on it, but yeah. 4:08PM

11 Q All right. And you're aware that the price, cost  
12 of commercial fertilizer has skyrocketed in the last  
13 three years?

14 A Yes, sir.

15 Q And in your view, does the cost of commercial 4:08PM  
16 fertilizer make chicken litter even more of a valuable  
17 asset?

18 MS. WEAVER: Object to form.

19 A I've been told that.

20 Q All right, sir. And I think I've heard your 4:08PM  
21 testimony that your growers have been cooperative with  
22 you, is that true, sir?

23 A Yes, sir.

24 Q Have they have been courteous to you?

25 A Yes, sir. 4:08PM